

*West Virginia Pharmacy Cost Management Council
Meeting Minutes
July 7, 2005 at 1:00 p.m.
State Capitol Building, Governor's Press Conference Room
Charleston, West Virginia 25305*

Members Present:

Scott Brown, Chair
Nancy Atkins
Felice Joseph
Kevin Outtersen
Peggy King
Dr. Wayne Spiggle
Stephen Neal
Leah L. Summers

Absent:

Phil Shimer
William Lytton
Laddie Burdette
Martha Walker

Others Present:

See Attached Register

Mr. Brown called the meeting to order and welcomed all attending including Senator Foster and Senator Jenkins.

Mr. Brown gave a brief update of issues he's been working on since his appointment as the Pharmaceutical Advocate: As of July 1, 2005 PEIA's prior authorization services have been awarded to Rational Drug Therapy in Morgantown. This will translate into a net savings in direct costs to the state in the amount of \$150,000 per year and will keep money in the state. He has worked with AIW/State Planning Group, chaired by Tom Heywood, that is looking at affordable healthcare for citizens of the state. This has been an intense process. He has met with various manufacturer representatives to get a feel for what's out there and they have given us their perspective. The Governor has an open door policy and wants everyone to have a voice and be heard. Scott has also been involved with State Maximum Allowable Cost – State MAC (SMAC) a term which applies to generic drugs and caps the amount Medicaid pays for the affected generic drugs. Scott has also met with Corrections and Workers' Comp folks about how pharmaceuticals are purchased and how to improve this process and pool buying resources.

Scott next introduced Governor Joe Manchin. Governor Manchin thanked the group for the work they've done in the last year and a half and let them know that their work has not gone unnoticed. He said West Virginia has become a model for other states and that we need to continue the collaboration. He said we need to be as efficient and effective as humanly possible and get the best medicine to people who need it. He stated that his administration supports this group's effort and that Scott is looking for input to be effective.

Kevin Outtersson questioned Governor Manchin about his vision for this group. The Governor stated that we come up with new ideas and maybe one out of 10 are implemented. He stated we need to make sure we are taking advantage of this group's expertise and we need to be accountable, follow-through and start implementing ideas that have been proposed and then monitor them to see if they're working. He stated that we need to consolidate services and savings for people and control all agencies in the buying pool and get up and running as quickly as possible so that we can realize the greatest buying power and cost savings.

Mr. Brown next introduced Nancy Atkins, Commissioner of the Bureau for Medical Services who provided an update on the Medicare Modernization Act. Since March, 350,000 West Virginians have qualified for the Medicare Prescription Drug Plan and they have identified 1,200 Medicaid recipients who are eligible for the Medicare plan. They have been working closely with the Social Security Administration (SSA) because they sign-up people for Medicare. Approximately 35 different organizations have been represented at the monthly meetings and many organizations have now been trained on how to help beneficiaries access the system. They are starting sign up for the low-income subsidy through the SSA and at some DHHR offices. There is some concern that retirees won't be properly notified by their companies that they are being dropped from coverage. CMS has sent letters to dual eligible to let them know about events coming in January. "Medicare and You 2006" handbook should be printed and ready for distribution by November 15th. In February Medicaid will begin paying the clawback for 48-50,000 dual eligibles. CMS has accepted West Virginia's numbers and they now have to be validated. Ms. Atkins indicated that several states are refusing to pay the clawback and CMS has indicated they will take it out of their match. There is some question about the constitutionality of this. There has also been some rumor that CMS is going to fund outreach, probably through the Senior Health Insurance Program (SHIP). The new Medicare drug plan will require co-pays and 30-50 drug plans will be allowed to "cold call" Medicare beneficiaries to pitch their plan. Sherri ElSheikh stated that a number should be posted and widely circulated where folks can be referred for help and to have their questions answered. Ms. Atkins will check into having CMS do a presentation to the Council. Scott also mentioned that a CD Rom program is being developed that will help folks determine which plan is the best fit for them.

Ms. Atkins made two motions: 1) consider having a CMS representative present to the Council and 2) investigate ways to set up a website or make it part of Council's website and to facilitate a hotline. Motion was seconded by Dr. Spiggle. Passed unanimously.

Brian Cunningham volunteered the Primary Care website to facilitate the state website. Scott Brown will coordinate with IS&C and the Governor's Office of Technology on how to hyperlink the Medicare information.

Mr. Brown next introduced Nancy Tyler, who gave a presentation on the National Legislative Association on Prescription Drug Prices (NLARX). NLARX is a bipartisan, independent, nonprofit organization founded by state legislators in 2000 seeking to reduce

prescription drug prices and expand access to affordable medicines. They believed that by joining together and sharing ideas, strategies and information, and coordinating the introduction of similar legislation, they would have more success counteracting the multi-million dollar lobbying efforts of the pharmaceutical industry to block their legislation.

Since then, members of the Association have become recognized nationally as key players on prescription drug issues. Maine, Hawaii and the District of Columbia have Rx Plus discount programs, pharmacy benefit management (PBM) transparency and ethics laws have been enacted in D.C. and Maine, and Vermont and Maine require disclosure of drug advertising costs, West Virginia enacted price negotiation based on the federal supply schedule and pioneered multi-state purchasing, Rhode Island and Vermont have importation initiatives, Maine requires disclosure of drug safety and effectiveness results from drug manufacturer clinical trials and Connecticut has comprehensive Medicare wraparound coverage.

The Executive Director is Sharon Anglin Treat, a lawyer and former Maine state senator and Senate Majority Leader. Ms. Treat sponsored path breaking laws on PBM transparency, Maine Rx Plus, and price disclosure. She has presented on prescription drug policy at numerous conferences including meetings of the Center for Policy Alternative, Families USA, the National Association of Community Pharmacists, Academy Health and the American Public Health Association and has also presented to legislators and policymakers in California, Rhode Island, Indiana, Washington State, Vermont and the District of Columbia.

Formal membership by one or more legislative chambers requires a legislative expression of intent such as a resolution or letter from the presiding officer. Membership entitles the presiding officer of each participating chamber to appoint up to three members of the chamber as Directors of the Association. Delegates Perdue, Border and Speaker Kiss represent the House. The Senate has not yet appointed members. Plans are in the works to have the next meeting of NLARX in West Virginia.

Approval of the March 4th and March 25th minutes was tabled until the next meeting because a quorum did not exist.

Old Business

340b Update - the subcommittee hasn't met since the last meeting of the Council. Scott says this group needs to "continue on" and come to an agreement with all parties to expand the program that has worked well and brought savings to the state. The national 340b conference will be held this year in Washington, D.C. Scott and Phil Schenk plan to attend. Brian Cunningham reports that Minnie Hamilton has become a new 340b site. During calendar year 2004, 340b pharmacies discounted \$3,589,562 in drugs to clients and this figure is probably greater because not all programs reported.

Marketing and Advertising - Professor Outtersen provided the Council with copies of “*A State Survey of Pharmaceutical Marketing Legislation*”, a survey prepared by Jonathan Bompiani, who at the time was a research intern with the Department of Health and Human Resources. Professor Outtersen says we can do some things to negotiate lower discounts. He says some demand is unmet and is legitimate. There is a question of whether marketing has created unnecessary demand, what we can do to respond to that demand and what have other states done (32-33 states have some form of marketing legislation).

This report surveys the efforts in various States to regulate pharmaceutical marketing and advertising. Some of the more interesting proposals include:

- In order to understand the scope and effect of drug marketing in West Virginia, drug companies should disclose all of their marketing and advertising expenditures.
 - ask for information
 - several states have done this
 - what are you spending
- The profession of drug detailing should be regulated by the State with a modest licensing system
- West Virginia should enact as state law the currently voluntary code of ethics created by PhRMA, prohibiting gifts by drug companies to influence prescriptions.
- When a pharmaceutical company advertises its product directly to consumers it should have a duty to warn consumers about the potential risks of the product.
- A few states have proposed taxing or prohibiting certain types of pharmaceutical advertising.
- Several states have proposed legislation which would counteract the monopoly position of patented drugs by permitting the State to issue a compulsory license, similar to an eminent domain taking of intellectual property. The company would be fully compensated for the license, in accordance with Constitutional standards. Compulsory licenses may also be used as remedies in litigation concerning excessively priced prescription drugs.

Scott says one thing we need to do as group with marketing/advertising is to look at HB 4084 and see where we've been and where we need to go.

Leah believes that Council as a whole should discuss before data is gathered what are we going to do with it once we have it.

The marketing subcommittee will refocus to come up with parameters, define the data and the form, what is reported - who reports.

Professor Outterson can have something back to the group at the next meeting—he will focus on the first three bullet points. John Brown will provide a position paper from PhRMA on the first three bullet points. Any written comments on marketing/advertising should be sent to Scott Brown before the next meeting.

I-Save-Rx importation and whether to support or not will be tabled until the next meeting. Governor Manchin has asked Scott to make a trip to Illinois to further study their program.

Central Fill Pharmacy - Scott says that the United Way supports outreach rather than a financial donation - looking for potential funding sources - sifting through meeting with Governor and hopefully will make an announcement before the next meeting. Professor Outterson believes drug companies support for Central Fill is essential.

New Business

Governor's charge is to eliminate redundancy and duplicity and to pool resources and buying power into one pharmacy benefits manager. Look at an RFP for a single claims processor. Peggy King stated that Medicaid is a different animal and they need to make sure that have legal advice and the right people around the table. Scott said it might be easier for others to join Medicaid vs. Medicaid joining them but he also understands that if you can show a cost savings to Medicaid you can pool them with other buying pools. Scott asked Peggy to see if Nora will attend meetings on this for legal advice.

Corrections is more than willing to combine their services. They have three different groups, all part of Military Affairs and Public Safety, but are purchasing their pharmaceuticals separately.

Dr. Foster stated to Professor Outterson that he feels that the legislature would find his data on advertising/marketing useful once it is compiled.

Scott would like to see consolidation efforts happen in the next 6-12 months and stated that there are many manufacturers who are interested in working with the state.

Due to a conflict with legislative interims in Morgantown, the next meeting of the Council will be scheduled at a later date.

Motion to adjourn meeting was made by Steve Neal, seconded by Felice Joseph. Motion carried unanimously. Meeting adjourned at 3:45 p.m.